

HOUSE BILL 265

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Patricia Roybal Caballero

AN ACT

RELATING TO PUBLIC SCHOOL PERSONNEL; REDUCING THE PROBATIONARY PERIOD FOR NONLICENSED SCHOOL EMPLOYEES AND LICENSED EDUCATIONAL ASSISTANTS TO ONE YEAR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-10A-24 NMSA 1978 (being Laws 1986, Chapter 33, Section 22, as amended) is amended to read:

"22-10A-24. TERMINATION DECISIONS--LOCAL SCHOOL BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

A. A local school board or governing authority of a state agency may terminate ~~[an]~~ a licensed school employee, excluding licensed educational assistants, with fewer than three years of consecutive service for any reason it deems sufficient. A local school board or governing authority of a state agency may terminate a nonlicensed school employee or a

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1 licensed educational assistant with less than one year of  
2 employment for any reason it deems sufficient. Upon request of  
3 the employee, the local superintendent or state agency  
4 administrator shall provide written reasons for the decision to  
5 terminate. The reasons shall be provided within ten working  
6 days of the request. The reasons shall not be publicly  
7 disclosed by the local superintendent, state agency  
8 administrator, local school board or governing authority. The  
9 reasons shall not provide a basis for contesting the decision  
10 under the School Personnel Act.

11 B. Before terminating a [~~noncertified~~] nonlicensed  
12 school employee or a licensed educational assistant, the local  
13 school board or governing authority shall serve the employee or  
14 assistant with a written notice of termination.

15 C. [~~An~~] A licensed school employee who has been  
16 employed by a school district or state agency for less than  
17 three consecutive years or a nonlicensed school employee or  
18 licensed educational assistant who has been employed for less  
19 than one year and who receives a notice of termination pursuant  
20 to either Section [~~22-10-12~~] 22-10A-22 NMSA 1978 or this  
21 section may request an opportunity to make a statement to the  
22 local school board or governing authority on the decision to  
23 terminate [~~him~~] the employee or assistant by submitting a  
24 written request to the local superintendent or state agency  
25 administrator within five working days from the date written

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1 notice of termination is served upon ~~[him]~~ the employee or  
2 assistant. The employee or assistant may also request in  
3 writing the reasons for the termination action [~~to terminate~~  
4 ~~him~~]. The local superintendent or state agency administrator  
5 shall provide written reasons for the notice of termination to  
6 the employee or assistant within five working days from the  
7 date the written request for a meeting and the written request  
8 for the reasons were received by the local superintendent or  
9 state agency administrator. Neither the local superintendent  
10 or state agency administrator nor the local school board or  
11 governing authority shall publicly disclose its reasons for  
12 termination.

13 D. A local school board or governing authority may  
14 not terminate ~~[an]~~ a licensed school employee who has been  
15 employed by a school district or state agency for three  
16 consecutive years or a nonlicensed school employee or licensed  
17 educational assistant who has been employed by a school  
18 district or state agency for one year without just cause.

19 E. The employee's request pursuant to Subsection C  
20 of this section shall be granted if ~~[he]~~ the employee responds  
21 to the local superintendent's or state agency administrator's  
22 written reasons as provided in Subsection C of this section by  
23 submitting in writing to the local superintendent or state  
24 agency administrator a contention that the decision to  
25 terminate ~~[him]~~ was made without just cause. The written

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1 contention shall specify the grounds on which it is contended  
2 that the decision was without just cause and shall include a  
3 statement of the facts that the employee believes support [~~his~~]  
4 the employee's contention. This written statement shall be  
5 submitted within ten working days from the date the employee  
6 receives the written reasons from the local superintendent or  
7 state agency administrator. The submission of this statement  
8 constitutes a representation on the part of the employee that  
9 [~~he~~] the employee can support [~~his~~] the employee's contentions  
10 and an acknowledgment that the local school board or governing  
11 authority may offer the causes for its decision and any  
12 relevant data in its possession in rebuttal of [~~his~~] the  
13 employee's contentions.

14 F. A local school board or governing authority  
15 shall meet to hear the employee's statement in no less than  
16 five or more than fifteen working days after the local school  
17 board or governing authority receives the statement. The  
18 hearing shall be conducted informally in accordance with the  
19 provisions of the Open Meetings Act. The employee and the  
20 local superintendent or state agency administrator may each be  
21 accompanied by a person of [~~his~~] the employee's and the local  
22 superintendent's or state agency administrator's choice.

23 First, the local superintendent shall present the factual basis  
24 for [~~his~~] the determination that just cause exists for the  
25 termination of the employee, limited to those reasons provided

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1 to the employee pursuant to Subsection C of this section.  
2 Then, the employee shall present [~~his~~] the employee's  
3 contentions, limited to those grounds specified in Subsection E  
4 of this section. The local school board or governing authority  
5 may offer such rebuttal testimony as it deems relevant. All  
6 witnesses may be questioned by the local school board or  
7 governing authority, the employee or [~~his~~] the employee's  
8 representative and the local superintendent or state agency  
9 administrator or [~~his~~] the local superintendent's or state  
10 agency administrator's representative. The local school board  
11 or governing authority may consider only such evidence as is  
12 presented at the hearing and need consider only such evidence  
13 as it considers reliable. No record shall be made of the  
14 proceeding. The local school board or governing authority  
15 shall notify the employee and the local superintendent or state  
16 agency administrator of its decision in writing within five  
17 working days from the conclusion of the meeting."